

EXHIBIT "A"

April 18, 2001

Marc Wolens
Essex Telcom, Inc.
2 East Third Street
Sterling, Illinois 61081

RE: ASR dated April 4, 2001 for 168 End Office Trunks

Dear Mr. Wolens:

I am writing to inform you that your request for the above referenced trunks is being denied. The interconnection agreement between Gallatin River Communications, L.L.C. ("Gallatin") and Essex Telcom, Inc. ("Essex") provides for establishment of local interconnection trunks for the reciprocal exchange of combined Local Traffic, and non-equal access IntraLATA toll traffic. The traffic that Essex intends to serve through the requested trunking is not local traffic. Rather, Essex would be providing service only to its affiliated ISP, and even then only interexchange service to Sterling.

The definition of "local traffic" can be found in Part B of the Interconnection Agreement and states "*local traffic means traffic (excluding Commercial Mobile Radio Services traffic, e.g., paging, cellular, PCS) that is originated and terminated within a given local calling area, or mandatory expanded area service (EAS) area, as defined by State commissions or, if not defined by state commissions, then as defined in existing Gallatin tariffs.*"

Section 13-202 of the Public Utilities Act of Illinois defines the term "Telecommunications carrier." Section 13-202(c) excludes from the definition of Telecommunications carrier "a company or person which provides telecommunications services *solely to itself and its affiliates or members...*" The service that Essex Telecom is asking Gallatin to provision is not service that Essex is providing as a telecommunications carrier, and therefore is not covered by the interconnection agreement.

In addition, §51.305(b) of the Code of Federal Regulations states that "a carrier that requests interconnection solely for the purpose of originating or terminating its interexchange traffic on an incumbent LEC's network and not for the purpose of providing to others telephone exchange service, exchange access service, or both, is not entitled to receive interconnection pursuant to section 251(c)(2) of the Act."

In summary, the traffic for which you are requesting local trunking is not covered by the Interconnection Agreement, and Gallatin is not obligated to provide local interconnection facilities for that traffic. Should Essex undertake to provide local exchange service, Gallatin will comply with its obligations under the interconnection agreement and under the Telecommunications Act of 1996. In the meantime, if you or your attorney have any questions about these issues, please contact our regulatory counsel, Dennis Muncy, who can be reached at (217) 352-0030.

Sincerely,

Jean Thaxton
Regulatory Manager

cc: Mike Skrivan
Gary Hamilton
David Rudd
Dennis Muncy

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April 27, 2001

Jean Thaxton
Regulatory Manager
Gallatin River Communications, L.L.C.
103 S. 5th Street
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Mebane NC 27302

VIA FAX 919.563.4993

RE: Refusal to Interconnect

Dear Ms. Thaxton:

This letter responds to your April 18, 2001 notice to Essex Telecom, Inc. ("Essex") that Gallatin River Communications, L.L.C. ("Gallatin") refuses to interconnect its network with that of Essex Telecom. We take issue with your factual and legal assertions, as explained below. We also hereby provide notice that unless you correct the situation within forty-eight (48) hours, Essex will file an emergency complaint with the Illinois Commerce Commission under §§ 13-514 and 13-515 of the Public Utilities Act of Illinois. We urge you to reconsider and immediately reverse your position and to then promptly interconnect with Essex, as you are required to do under both state and federal law.

Factual and Legal Assertions Incorrect

Gallatin appears to be relying on some mistaken factual assumptions and incorrect legal conclusions. First, you assert that "Essex would be providing service only to its affiliated ISP," and "even then only interexchange service to Sterling." Second, you appear to believe that Essex will not be providing local exchange service. All three of these statements are incorrect.

Essex will be providing local service. Essex has local customers in Dixon. A copy of three service requests for local voice service in Dixon is attached to this reply.

Further, while it is true that Essex will also initially provide service to an affiliated entity, that service too is local, not interexchange. As you state, the affiliated entity is an ISP. It is quite reasonable for one of the first customers to be an affiliate. Be aware that Essex fully intends to provide service to many unaffiliated customers. Essex can only do so if incumbents interconnect.

As you know, Internet Service Providers are treated as end users under both federal and state rules. ISPs order local service from local tariffs. "ISP traffic" is routinely routed over local trunks, both within and between LEC networks. While there is some debate over the issue of whether traffic destined to ISPs is local for reciprocal compensation purposes, we are aware of no authority holding that an ILEC may deny local interconnection trunks to a CLEC that provides

service to ISPs. ILECs may not discriminate against customers such as ISPs based on the local service provider chosen by the ISP. Section 251(c)(2)(D) prohibits such discrimination. *See, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶¶ 216-220 (1996) (*Local Competition First Report and Order*). Essex will be providing local service from its local tariff in compliance with the "ESP exemption" prescribed by the FCC. *See*, 47 C.F.R. § 69.2(m), 47 C.F.R. § 69.5(a). *See also*, *Bell Atl. Tel. Companies v. F.C.C.*, 206 F.3d 1 (D.C. Cir. 2000); *MTS and WATS Market Structure*, 93 F.C.C.2d 241 (1983) [*Access Charge Order*], *modified on reconsideration* 97 F.C.C.2d 682 (1983) [*Access Charge Reconsideration Order*], *modified on further reconsideration*, 97 F.C.C.2d 384 (1984), *aff'd in part and remanded in part*, *National Association of Regulatory Commissioners v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *cert. denied*, 469 U.S. 1227 (1985), *modified on second further reconsideration*, 101 F.C.C.2d 1222 (1985), *aff'd sub nom*, *AT&T v. FCC*, 832 F.2d 1285 (D.C. Cir. 1987).

We are not sure of the basis for your allegation that the service to Essex' affiliate will be "interexchange to Sterling." The service will be provided using NXX numbers that are associated with the Gallatin local calling scope. Both the originating and terminating NXXs will be to the same rate center. The Illinois Commerce Commission has already considered an arrangement very similar to this matter. *See*, No. 00-0027; *Focal Communications Corporation of Illinois Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Illinois Bell Telephone Company, d/b/a Ameritech Illinois*, Arbitration Decision, pp. 15-17 (May 8, 2000).

Finally, Gallatin cites to § 13-202 of the Public Utilities Act of Illinois and 47 C.F.R. § 51.305(b) as legal support for the proposition that Essex is not entitled to interconnection. As to the state law, Essex is a carrier, and is certified by the ICC. Gallatin has no right or power to make a unilateral determination as to whether Essex is a telecommunications carrier under state law. As to the FCC rule, we have already pointed out that Essex is not requesting interconnection solely for the purpose of originating or terminating Essex' own interexchange service. The interconnection is for our customers' traffic.

The proposition that you assert is shocking. Gallatin apparently believes that it has no obligation to interconnect with a competitor merely because that competitor provides service to ISPs. While there may be a range of opinion over whether and to what extent reciprocal compensation is due for ISP traffic, we are certain that no state or federal regulator would even entertain the proposition that an ILEC, which provides service to ISPs pursuant to local tariffs, can erect a complete barrier to entry – in the form of a refusal to physically interconnect – to any other carrier for that ISP's business. We reiterate that this matter is not about reciprocal compensation for transport and termination of traffic flowing over interconnection trunks. It relates to required physical interconnection of two carrier networks. Your position is, quite frankly, frivolous and it is merely taken to prevent competition.

Notice of Intention to File Complaint with ICC

We hereby provide you notice that unless Gallatin corrects this situation within 48 hours, Essex will file an emergency complaint with the ICC pursuant to §§ 13-514 and 13-515 of the Public Utilities Act of Illinois. By its action, Gallatin has violated subsections (1), (4), (5), (6) and (8) of § 13-514. Essex will include a request for emergency relief under § 13-515(e). To the extent you defend your actions using the same frivolous reasons given in your letter, we will bring a claim for sanctions under § 13-515(i). We will also request that all costs be assessed against Gallatin, in accordance with § 13-515(f). Finally, we will assert that Gallatin is acting in bad faith and we will seek all available remedies, including penalties and assessment of attorneys' fees and damages. If we fail to hear from you within 48 hours, we will promptly file the complaint.

All further communications should be directed to the undersigned. Thank you.

Sincerely,


W. Scott McCollough
Counsel for Essex Telecom, Inc.

xc: Dennis Muncy
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James L. Capel, Jr (1933-1991)

May 1, 2001

BY FACSIMILE AND U.S. MAIL

Scott McCullough, Esq.
Stumpf Craddock Massey & Pulman
1801 N. Lamar Blvd, Suite 104
Austin, TX 78701

Re: Essex Telcom, Inc.'s Request for Trunking

Dear Mr. McCullough:

This responds to your April 27, 2001 letter to Jean Thaxton. This will clarify the position of Gallatin River Communication, Inc. ("Gallatin") and confirm Gallatin's intentions to abide by the obligations of its Interconnection Agreement with Essex Telcom, Inc. ("Essex Telcom").

Gallatin understands as a result of your letter that Essex Telecom now has local exchange customers other than its affiliated ISP, "Essex Internet." This new information addresses Gallatin's objections under the Illinois Public Utility Act and 47 C.F.R. § 51.305, raised in Jean Thaxton's April 18, 2001 letter. Nevertheless, Gallatin needs to understand what Essex Telecom is requesting from Gallatin by way of interconnection and network configuration, and Gallatin needs to be sure that Essex Telecom understands the resulting compensation arrangements.

As you know, pursuant to its Interconnection Agreement with Essex Telcom, Gallatin has provided collocation space and related facilities to Essex Telcom. It is Gallatin's understanding that Essex Telcom has certain equipment at that site, which functions as the point of interconnection between Gallatin and Essex Telcom, but that Essex Telcom does not have a switch within the Dixon exchange. Rather, its switch is located in the Sterling Illinois exchange.

Gallatin understands that Essex Telcom plans to provide local telephone service to at least three local exchange customers residing in the Dixon exchange. Gallatin does not know, however, how Essex Telcom intends to provision service to these customers. Will Essex Telcom be ordering unbundled loops, resale, etc.?

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Gallatin also understands that Essex Telcom intends to use a virtual NXX to offer "local" calling to customers in the Dixon local exchange wishing dial up to Essex Telcom's customer, Essex Internet, which is located in the Sterling exchange. Thus, a Gallatin local telephone customer in Dixon, who is also a dial-up ISP customer of Essex Internet, would dial the Dixon telephone number of Essex Internet and would be routed through Gallatin's switch to Essex Telcom's point of interconnection. From there, the call would be terminated at Essex Internet in the Sterling exchange.

When Essex Telcom begins this service, it is Gallatin's intention to provide the trunking necessary from Gallatin's switch to Essex Telcom's point of interconnection to meet the network standards defined in the Interconnection Agreement. These network standards require a completion rate of 99% during the busy hour. Please be aware that, even with Essex Telcom's addition of local exchange customers, Gallatin must still reject Essex Telcom's current trunk order, not because Gallatin refuses interconnection, but simply because Essex Telcom cannot order trunks for Gallatin's use, nor can it unilaterally specify the trunk quantities required for Gallatin to meet the grade of service specified in the Interconnection Agreement. As indicated below, Gallatin can provide appropriate trunking.

Essex Telcom's misunderstanding of this procedure under the Interconnection Agreement raises a further concern that I would like to address regarding compensation for these calls. Under the Interconnection Agreement, "Local Traffic" is defined as "traffic (excluding CMRS) that is originated and terminated within a given local calling area, or mandatory expanded area service (EAS) area, as defined by State commission or, if not defined by state commissions, then as defined in existing Gallatin tariffs." The Dixon local exchange is a single local calling area. Gallatin has no concern about the compensation due between Gallatin and Essex Telcom for calls between Gallatin's local exchange customers and Essex Telcom's local exchange customers residing in the Dixon exchange. These would be local calls under the Interconnection Agreement and subject to compensation accordingly, since the calls would originate and terminate in the Dixon exchange.

Sterling is not part of the Dixon local calling area and, therefore, calls terminated in the Sterling exchange would not be local calls under the Interconnection Agreement and would not be subject to local compensation. Specifically, calls terminated to Essex Internet in the Sterling exchange would not be local calls, not because Essex Internet is an ISP, but simply because Essex Internet is not within Gallatin's local serving area. Stated another way, even though the Dixon customers are dialing a local NXX, and it looks like a local call to the dialing party, compensation for the call is based on where it originates and where it terminates. Essex Telcom would be providing a foreign exchange (FX) service to its customer, Essex Internet. The Illinois Commerce Commission has determined that FX service is not local. In its *Level 3 Communications Order* in ICC Docket 000332, the Commission addressed, "Whether an FX or

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NXX call that would not be local based on the distance it travels, is subject to reciprocal compensation" and found the traffic was not local.

The FCC's regulations require reciprocal compensation only for the transport and termination of "local telecommunications traffic," which is defined as traffic "that originates and terminates within a local service area established by the state commission." 47 CFR 51.701(a)-(b)1. FX traffic does not originate and terminate in the same local rate center and therefore, as a matter of law, cannot be subject to reciprocal compensation. Whether designated as "virtual NXX," which Level 3 uses, or as "FX," which [Ameritech Illinois] prefers, this service works a fiction. It allows a caller to believe that he is making a local call and to be billed accordingly when, in reality, such call is traveling to a distant point that, absent this device, would make the call a toll call. The virtual NXX or FX call is local only from the caller's perspective and not from any other standpoint. There is no reasonable basis to suggest that calls under this fiction can or should be considered local for purposes of imposing reciprocal compensation. Order at 9, ¶ (b).

Gallatin expects to install a combined trunk group which will handle the local traffic terminating to Essex Telcom's local customers in the Dixon area as well as the FX traffic terminating to Essex Internet in Sterling. (Gallatin expects that Essex Telcom will be installing or leasing appropriate trunks for calls originating from Essex Telcom's local customers and terminating to Gallatin's customers.) However, Essex Telcom must understand the interconnection arrangements and compensation for FX traffic will be different than for the local traffic. Gallatin does not want Essex to be surprised by any billing it receives for this service.

In order for Gallatin to establish appropriate trunking, Gallatin will need a traffic forecast as called for under Part C, Attachment III, Section 3 of the Interconnection Agreement. In addition, if Essex Telcom would like Gallatin to estimate the compensation requirements for the FX traffic, Gallatin will need Essex Telcom to identify clearly the network configuration it plans to use for this traffic. Gallatin also requests that Essex Telcom identify the network elements it plans to order from Gallatin in order to provide local service to its prospective customers in the Dixon exchange. This will allow Gallatin to make sure such facilities are ready when needed.

Gallatin will be ready to install the trunks when Essex Telcom turns up its FX service to Essex Internet or when it begins service to its prospective Dixon customers, whichever comes first. Gallatin can have the trunks installed, tested and working within 7-10 business days of receiving the traffic forecast.

Scott McCullough, Esq.

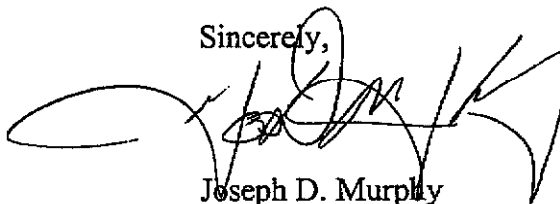
May 1, 2001

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However, as indicated above, Gallatin wants to make sure that Essex Telcom understands that FX service is not subject to local compensation under the Interconnection Agreement and that Essex Telcom may incur costs it has not anticipated in association with this service. Should Essex Telcom elect to proceed without allowing Gallatin to advise it of the compensation required under this network configuration, Gallatin will oblige, but Essex does so at its own risk.

I look forward to your response in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J.D. Murphy", is written over the word "Sincerely,". The signature is stylized with a large, sweeping initial "J" and a long horizontal stroke.

Joseph D. Murphy

JDM:baf

cc: Jean Thaxton - by facsimile
(Gallatin River Communications)

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May 8, 2001

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VIA FAX 217.352.1083
VIA EMAIL jmurphy@mayercapel.com

Re: Essex/Gallatin Interconnection issues

Dear Mr. Murphy:

Essex Telecom, Inc. ("Essex") and Gallatin River Communications, LLC's. ("Gallatin") have had several discussions and exchanges of correspondence regarding each party's view of the proper resolution of the issues relating to interconnection between the two networks. This exchange has helped both sides to understand each other and to sharpen the issues. We now understand Gallatin's position to be that it will interconnect with Essex and will exchange traffic. Gallatin has indicated it will process trunking as needed within 7-10 days of receipt of a traffic forecast from Essex and that this trunking will support both "local" and "ISP-Bound" traffic; and that Essex may establish a single point of interconnection at the collocation site in Dixon for exchange of all traffic between the two networks in the LATA. Gallatin, however, asserts that Essex (or Essex' customer) will be obligated to pay Gallatin the equivalent of Gallatin's measured intrastate switched access Feature Group A usage and transport rates for traffic that does not both originate from and terminate to an end user that is physically located in Dixon. Gallatin has indicated it may be willing to accept payment based on assumed minutes of use or the flat rate business line.

Essex has carefully considered Gallatin's position and proposal. While we appreciate your present willingness to interconnect – as compared to your initial refusal – the attempt to impose intrastate switched access FGA-like charges (whether usage sensitive or flat) is inconsistent with the interconnection agreement between the parties and does not comport with the FCC's recent Orders relating to interconnection in general and treatment of ISP-Bound traffic in particular. We will indicate below our final position statement.

With regard to traditional "Local" traffic (*i.e.* both the calling and called party are physically in the same rate center, and neither is an ISP) there does not appear to be a dispute between the parties. When the one of the parties is not physically in the same rate center as the other party and receives service via what you call "Virtual NXXs,"¹ however, you assert that Gallatin is entitled to recover "interexchange toll" charges from Essex in the form of intrastate switched access measured usage rates or a surrogate flat monthly amount.

¹ Gallatin first used the phrase "Virtual NXX" to describe the service. We do not necessarily agree that this is a proper denomination of the service, and use it here only for ease of reference.

We believe you are basing your position on the provision of the Interconnection Agreement pertaining to compensation arrangements when "toll" traffic is exchanged. Part C – Attachment I of the Agreement provides:

2.2 Compensation for the termination of toll traffic and the origination of 800 traffic between the interconnecting parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations and consistent with the provisions of Attachment III of this Agreement.

In our opinion this provision does not pertain to so-called "Virtual NXXs" for two reasons. First, using a "Virtual NXX" to provide "local calling scope" is not a "toll" service as a general proposition. Second, the FCC ruled on April 27 that when two LECs jointly provide service for ISP-bound service they are providing an interstate information access service not governed by §§ 251 and 252 of the Communications Act. Rather, the LECs are now subject to the FCC's authority under § 201.²

Service provision using "Virtual NXXs" is not "toll" service. The Interconnection Agreement does not contain a definition of "toll" even though the term is used in several places. We therefore resort to the statutory definition of "telephone toll service" in § 153 of the Act:

(48) TELEPHONE TOLL SERVICE.--The term "telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

Gallatin appears to assert that it will be providing exchange access (either to Essex or the "Virtual NXX" customer). Section 153 also defines that phrase:

(16) EXCHANGE ACCESS.--The term "exchange access" means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

The definitions of "telephone toll service" and "exchange access" are interrelated. Exchange access is what is provided to facilitate telephone toll service. Gallatin, however, will not be providing exchange access because Essex' "Virtual NXX" service is not telephone toll service even if it is interexchange. This is so because there will be no separate charge not included in contracts with Essex subscribers for exchange service. Essex' "Virtual NXX" service is not "telephone toll service" and is therefore not "toll" traffic under § 2.2 of the Interconnection agreement. Access charges do not apply to either the subscriber or Essex.

² While Essex disagrees with many of the FCC's pronouncements in the *Order on Remand and Report and Order*, Inter-carrier Compensation for ISP-Bound Traffic, Docket No. 99-68 (Rel. April 27, 2001) [*"Remand Order"*], it is in effect at the present time. Both parties will likely desire to reserve the right to revisit the issues if and when the *Remand Order* is stayed or reversed on appeal.

Essex' "Virtual NXX" service is "exchange service" under the FCC's most recent pronouncement.³ The FCC pointed out in note 65 of the *Remand Order* there is no statutory definition of "exchange service" as used in § 153 and elsewhere in the Act. The FCC concluded that when an LEC provides service to an ISP, it is providing "information access." The FCC went on to rule that "information access" is a form of "exchange service." *Id.* Again, therefore, Essex' "Virtual NXX" service – when provided to an ISP – can not be "toll" because it is a part of "exchange service." See § 153(48).

As to Gallatin's proposal to assess intrastate switched access charges because the ISP is not physically located in the same rate center as the calling party, we must again point out that the FCC reaffirmed its "end to end" theory of Internet related traffic. Under the end to end theory the physical location of the ISP is irrelevant, since the FCC has decided that the relevant end point is "the global computer network of web content, email authors, game room participants, databases or bulletin board contributors." *Remand Order* ¶ 59. The ISP is now merely "an intermediate point of switching or exchange between carriers (or other providers)." *Id.* ¶ 57. Intrastate access charges are especially not proper because the FCC has now held that ISP-bound traffic is interstate. *Id.*

Finally, as you know, the FCC has issued rules for exchange of traffic between two LECs when ISP-bound traffic is involved but the two carriers are not exchanging traffic. While there is an interconnection agreement between Essex and Gallatin, traffic has not been passed between the two networks. Pursuant to ¶ 81 of the *Remand Order* the compensation regime for exchange of ISP-bound traffic is bill and keep. In other words, Essex will not charge Gallatin for terminating the call to the ISP, and Gallatin may not charge Essex switched access. As to "Virtual NXX" traffic, this is also consistent with the ICC's decision in the *Level 3* arbitration. Of course, neither Gallatin nor Essex may impose access charges on an ISP customer of either carrier given the continued "ESP Exemption" from access charges, so the suggestion that Gallatin may charge the ISP is also not possible.

We summarize: Essex has established a single point of interconnection in Dixon. Gallatin has already agreed to provide interconnection trunks for all forms of traffic based on Essex' forecast. Gallatin has agreed to transport calls from each of its areas in the LATA to this point of interconnection. The sole remaining dispute pertained to Essex' "Virtual NXX" service. Based on the FCC's recent *Remand Order* and the ICC's *Level 3* arbitration order, Essex submits that the proper result is bill and keep for the exchange of traffic to ISPs served by Essex.

You will shortly receive the traffic forecasts and we trust that within 7-10 business days you will provision sufficient trunking to support all of the traffic to be exchanged between the two networks. We will, of course, be happy to answer any questions you may have. Please contact us if you need further information.

Sincerely,

W. Scott McCollough

³

Essex' only "Virtual NXX" customer at the present time is an ISP.

REC'D MAY 16 2001

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May 14, 2001

BY FACSIMILE AND U.S. MAIL

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Re: Essex Telcom, Inc.'s Request for Trunking

Dear Mr. McCullough:

Thank you for your letter of May 8, 2001. I think that it advances our clients' understanding of where we agree and where we differ. However, I do not think that it completely captures Gallatin River Communications LLC's ("Gallatin") position on several important issues. Therefore, I am responding in order to clarify what I believe are misunderstandings by your clients, Essex Telcom, Inc. ("Essex Telcom") and Essex Internet.

First, Gallatin disagrees with your assertion that it has refused interconnection. Rather, as set forth in Jean Thaxton's April 18, 2001 letter to Marc Wollens, Gallatin rejected Essex Telcom's original trunk order because at that time Essex Telcom had no local exchange customers other than Essex Internet, its own ISP affiliate. Gallatin has never refused to interconnect consistent with the terms of its Interconnection Agreement with Essex Telcom.

You also state that Gallatin agrees that it will "interconnect with Essex and will exchange traffic." More exactly, Gallatin agrees that it will interconnect with Essex Telcom at a single point of interconnection, and it will exchange *local* traffic between Gallatin and Essex Telcom customers, *i.e.*, traffic between customers located in the Dixon local calling areas. These are Gallatin's obligation under the Interconnection Agreement and under the Telecommunications Act of 1996 ("TA96").

But, without regard to its willingness to interconnect, Gallatin is not obligated under either the Interconnection Agreement or under TA96 to exchange as "local" calls that originate with a Gallatin customer in its Dixon exchange and terminate to an Essex Telcom customer in

Scott McCullough, Esq.

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Page 2

the Sterling exchange or any exchange outside of Dixon's local calling area. The fact that Essex Telcom's customer, Essex Internet, is an ISP does not change this analysis. To be clear, Gallatin does not agree that Essex Telcom's *customers* would pay Gallatin intrastate switched access for Feature Group A, since that service is available only to other carriers like Essex Telcom. This service would be based on actual minutes of use, not assumed minutes, because Gallatin believes that it can measure the usage. Conversely, Gallatin does not agree that it would provide Essex Telcom (other than as a wholesaler) a flat rate business line, since that service is available only to retail customers.

Gallatin does not agree that requiring exchange access or FX service to terminate calls from Gallatin's Dixon customers to Essex Internet in Sterling is inconsistent with the Interconnection Agreement or that it does not comport with the FCC's recent orders relating to interconnection in general or the treatment of ISP-bound traffic specifically. In disagreeing with your conclusions, Gallatin similarly disagrees with your assessment of why Gallatin believes that access is appropriate and with your assessment of the recent FCC orders.

First of all, Gallatin is not requiring exchange access compensation in reliance of the definition of "toll" traffic in the Interconnection Agreement. Gallatin is relying on the fundamental difference between local exchange and exchange access underlying the FCC's orders since the creation of exchange access in the early 1980s. Gallatin is requiring exchange access because the traffic is not local traffic and is simply not covered by the Interconnection Agreement. While the Interconnection Agreement does explicitly exclude from local compensation arrangements some kinds of interexchange calling -- *i.e.*, "toll traffic and the origination of 800 traffic between the interconnecting parties" -- that list does not claim to be exhaustive and does not control the definition of interexchange calling. On the other hand, the Interconnection Agreement does define "Local Traffic":

"LOCAL TRAFFIC" means traffic (excluding Commercial Mobile Radio Services traffic, *e.g.*, paging, cellular, PCS) that is originated and terminated within a given local calling area, or mandatory expanded area service (EAS) area, as defined by State commissions or, if not defined by state commissions, then as defined in existing Gallatin tariffs.

See Interconnection Agreement Part B - Definitions. Gallatin's local calling area is defined by the Illinois Commerce Commission. No EAS arrangements cover calls from Gallatin's Dixon exchange to the Ameritech Illinois' Sterling exchange. Calls originating in the Dixon exchange and terminating in the Sterling exchange are not local and are not covered by the Interconnection Agreement. They are interexchange and subject to exchange access.

Your position appears to be that Essex Telcom does not intend to charge its customer, Essex Internet, any "toll" cost for carrying the call between exchanges and therefore it is not a toll call. Essex Telcom may determine how to recover its costs, but Gallatin cannot agree that Gallatin's ability to obtain exchange access is limited by Essex Telcom's mechanism for cost recovery. If this were the case, interexchange carriers could avoid access charges by simply providing exchange service to the "terminating" customer and recovering all "toll" charges through the cost for that exchange service.

Second, Gallatin's position is not inconsistent with the FCC's recent Order on Remand and Report and Order ("Order") concerning reciprocal compensation for ISP-bound traffic. *See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 01-131 (rel. April 27, 2001). Essex Telcom apparently reads that order as essentially exempting from exchange access any calls that terminate to an ISP, based on the FCC's end-to-end view of the call.

Gallatin does not agree that the FCC reached such a sweeping conclusion, the logical result of which would be that a nationwide IXC could provide 800 service to an ISP anywhere and avoid exchange access on all calls to the ISP. The Order is not that broad. Rather, it is limited to calling where the ISP served by a competing local exchange carrier is in the same exchange as the originating caller. The more limited scope of the FCC's ruling is referenced, for example, in Paragraph 13 of the Order, where the FCC discusses the basis of its Order:

13. As a result of this determination ["that section 251(b)(5) reciprocal compensation obligations 'apply only to traffic that originates and terminates within a local area' as defined by state commissions"], the question arose whether reciprocal compensation obligations apply to the delivery of calls from one LEC's end-user customer to an ISP *in the same local calling area* that is served by a competing LEC. The Commission determined at that time that resolution of this question turned on whether ISP-bound traffic "originates and terminates within a local area," as set forth in our rule.

Order at 13 (footnotes omitted; emphasis added; bracketed material quoted from ¶ 12). The Order simply does not address compensation where an ISP is located in an exchange outside of the local calling area of the calling party.

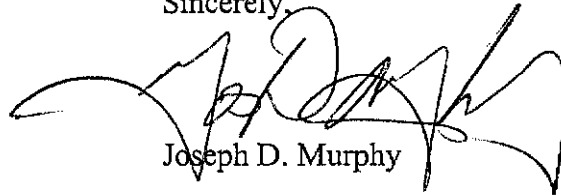
While calls from Gallatin's Dixon customers to Essex Telcom's Sterling customers, ISP or otherwise, are not covered by the Interconnection Agreement, Gallatin is willing to exchange those call if the parties reach agreement on compensation for that traffic. As we have discussed, the two most obvious ways to handle this call are for Essex Internet to remain a customer of

Scott McCullough, Esq.
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Gallatin so that Gallatin can co-provision an FX service by providing a business line to Essex Internet in Dixon (the way it now does) or for Essex Telcom to pay exchange access to Gallatin to complete calls from Gallatin's customers to Essex Telcom's customers outside of the Dixon exchange. A third way would be for Essex Telcom to "resell" Gallatin's business line service to Essex Internet, thus allowing Essex Telcom the resale discount, which it could reflect in its pricing to Essex Internet.

As Gallatin has indicated, it will provision trunking based on appropriate traffic forecasts. However, Gallatin will not exchange traffic for termination outside of the Dixon local calling area unless it is being appropriately compensated for exchange access.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.D. Murphy', written over a horizontal line.

Joseph D. Murphy

JDM:baf

cc: Jean Thaxton - by facsimile
(Gallatin River Communications)